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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

STATE OF WYOMING,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. _____
)	
UNITED STATE DEPARTMENT)	
OF THE INTERIOR; and BUREAU)	
OF LAND MANAGEMENT,)	
)	
Defendants.)	

COMPLAINT

Plaintiff, State of Wyoming, by and through the Office of the Attorney General of the

State of Wyoming, brings this complaint seeking injunctive relief, declaratory relief, and a writ of mandamus against Defendants United States Department of the Interior and Bureau of Land Management (collectively referred to as “Defendants”). In support of this complaint, Plaintiff State of Wyoming alleges as follows:

INTRODUCTION

1. Plaintiff State of Wyoming files this action to defend its interests as the owner of wildlife and lands being adversely affected by the failure of Defendants to manage the wild horses in Wyoming in the manner required by the Wild Free-Roaming Horses and Burros Act and in a manner consistent with the requirements of the Federal Land Policy and Management Act of 1976. This litigation is necessary because Defendants have permitted the number of wild horses in Wyoming to exceed the maximum herd population limits established by the Bureau of Land Management. The estimated current wild horse population in Wyoming is 7000 horses, more than double the total wild horse population limit established by the Bureau of Land Management. Defendants have permitted the continuing overpopulation of wild horses in Wyoming despite repeated written requests from the State of Wyoming for them to take the appropriate actions to reduce the size of the wild horses herds.

2. The overpopulation of wild horses in Wyoming has caused a decrease in the amount of habitat available for wildlife, has resulted in a decrease in the amount of forage available for wildlife and for domestic livestock, and has caused damage to lands owned by the

State of Wyoming. The continuing overpopulation of wild horses threatens to displace wildlife, to cause additional damage to lands owned by the State of Wyoming, and to diminish the value of state-owned lands and the value of grazing leases for such lands. The continuing overpopulation of wild horses also threatens the long term viability of wildlife and the wild horse herds in Wyoming.

JURISDICTION

3. This action arises under the Wild Free-Roaming Horses and Burros Act, 16 U.S.C. §§ 1331-1340, and the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701-706. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §1331 (federal question), 28 U.S.C. § 1346(a)(2) (United States as a defendant), 28 U.S.C. § 1361 (mandamus), 28 U.S.C. §§ 2201-2202 (declaratory judgments), and 5 U.S.C. §§ 702-706 (APA right of review).

VENUE

4. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(e)(2), as a substantial part of the events or omissions giving rise to this civil action occurred in this judicial district.

PARTIES

5. Plaintiff State of Wyoming is a sovereign state. The State of Wyoming brings this litigation on its own behalf as the owner of wildlife and lands adversely affected by the

failure of Defendants to perform their non-discretionary duties as required by the Wild Free-Roaming Horses and Burros Act.

6. Defendant United States Department of the Interior is a duly established federal agency and is responsible for the administration of the Wild Free-Roaming Horses and Burros Act. The principal place of business of Defendant United States Department of the Interior is located at 1849 C Street, NW, Washington, D.C., 20240.

7. Defendant Bureau of Land Management (“BLM”) is a federal agency within the United States Department of the Interior. Defendant BLM administers the Wild Free-Roaming Horses and Burros Act on behalf of the United States Department of the Interior. The principal place of business of Defendant BLM is located at 1620 L. Street NW, Washington, D.C., 20036.

FACTS COMMON TO ALL CAUSES OF ACTION

8. All unbranded and unclaimed horses that use public lands as all or part of their habitat are classified as “wild horses” under federal law. In Wyoming, wild horse habitats are found near Cody, Lander, Lovell, Rawlins, Rock Springs, and Worland.

9. In 1971, Congress enacted the Wild Free-Roaming Horses and Burros Act to protect, manage and control wild horses and burros on public lands in the United States. In the Wild Free-Roaming Horses and Burros Act, Congress vested the Secretary of the Interior with jurisdiction over wild horses and directed the Secretary to manage wild horses in a manner that

is designed to achieve and maintain a thriving natural ecological balance on the public lands. The Wild Free-Roaming Horses and Burros Act requires the Secretary of the Interior to carry out all management activities in a manner that protects the natural ecological balance of all wildlife species which inhabit the public lands.

10. The Wild Free-Roaming Horses and Burros Act also requires the Secretary of the Interior to maintain a current inventory of wild horses on given areas of the public lands. The Wild Free-Roaming Horses and Burros Act dictates that the Secretary shall use this inventory to determine whether an overpopulation of wild horses exists in a given area of the public lands, whether action should be taken to remove excess wild horses, to determine appropriate management levels (“AML’s”) of wild horses on given areas of the public lands, and to determine whether AML’s should be achieved by the removal or destruction of excess animals, or other options. If the Secretary determines that an overpopulation of wild horses exists on a given area of public lands, she shall immediately remove excess wild horses from the range so as to achieve the AML for the given area of land, to restore a thriving natural ecological balance to the range, and to protect the range from the deterioration associated with overpopulation.

11. The Federal Land Policy and Management Act of 1976 dictates that the Secretary of the Interior shall manage the public lands within her jurisdiction in a manner that will protect the ecological and water resource values and will provide food and habitat for fish, wildlife,

and domestic animals. The Secretary's management of public lands within her jurisdiction shall be on the basis of multiple use and sustained yield. The goals and objectives for the management of such public lands shall be established as guidelines for public land use planning.

12. The Secretary of the Interior administers the Wild Free-Roaming Horses and Burros Act in Wyoming through the BLM Wyoming State Office. To maintain and manage the wild horses in Wyoming, the BLM Wyoming State Office has established 16 herd management areas ("HMA's"). The BLM Wyoming State Office administers the 16 HMA's through field offices located in Cody, Lander, Rawlins, Rock Springs, and Worland.

13. The BLM Wyoming State Office has established an AML for each HMA in Wyoming. The AML is the wild horse population objective for a given HMA and is the optimum number of wild horses that provides a thriving ecological balance among all of the resources and users of the HMA.

14. The Rock Springs field office maintains and manages wild horses in 4 HMA's: the Great Divide Basin HMA, the Little Colorado HMA, the Salt Wells HMA, and the White Mountain HMA.

15. The Great Divide Basin HMA encompasses 778,915 acres of land, including land owned by the State of Wyoming. The AML for the Great Divide Basin HMA is 415-600 horses. The estimated current wild horse population in the Great Divide Basin HMA is 923

horses. The wild horse population in the Great Divide Basin HMA increases through reproduction at a rate of approximately 18% to 20% per year.

16. The Little Colorado HMA encompasses 519,541 acres of land, including land owned by the State of Wyoming. The AML for the Little Colorado HMA is 69-100 horses. The estimated current wild horse population in the Little Colorado HMA is 240 horses. The wild horse population in the Little Colorado HMA increases through reproduction at a rate of approximately 18% to 20% per year.

17. The Salt Wells HMA encompasses 1,193,283 acres of land, including land owned by the State of Wyoming. The AML for the Salt Wells HMA is 251-365 horses. The estimated current wild horse population in the Salt Wells HMA is 1,071 horses. The wild horse population in the Salt Wells HMA increases through reproduction at a rate of approximately 18% to 20% per year.

18. The White Mountain HMA encompasses 392,649 acres of land, including land owned by the State of Wyoming. The AML for the White Mountain HMA is 205-300 horses. The estimated current wild horse population in the White Mountain HMA is 363 horses. The wild horse population in the White Mountain HMA increases through reproduction at a rate of approximately 18% to 20% per year.

19. In addition to the Great Divide Basin, Little Colorado, Salt Wells, and White Mountain HMA's, the Rock Springs field office manages wild horses in the North Baxter/Jack

Morrow Hills area. The North Baxter/Jack Morrow Hills area lies north of Interstate 80 and is bounded by Highway 191 on the west, by Highway 28 on the north, and by the western boundary of the Great Divide Basin HMA on the east. Land owned by the State of Wyoming lies within the boundaries of the North Baxter/Jack Morrow Hills area. The AML for the North Baxter/Jack Morrow Hills area is 0. Upon information and belief, the current estimated wild horse population in North Baxter/Jack Morrow Hills area is 277 horses. The wild horse population in the North Baxter/Jack Morrow Hills area increases through reproduction at a rate of approximately 18% to 20% per year.

20. The Rawlins field office maintains and manages wild horses in three HMA's: the Adobe Town HMA, the Lost Creek HMA, and the Stewart Creek HMA.

21. The Adobe Town HMA encompasses 472,812 acres of land, including land owned by the State of Wyoming. The AML for the Adobe Town HMA is 610-800 horses. The estimated current wild horse population in the Adobe Town HMA is 1575 horses. The wild horse population in the Adobe Town HMA increases through reproduction at a rate of approximately 18% to 20% per year.

22. The Lost Creek HMA encompasses 250,000 acres, including land owned by the State of Wyoming. The AML for the Lost Creek HMA is 60-82 horses. Upon information and belief, the estimated current wild horse population in the Lost Creek HMA is 277 horses. The

wild horse population in the Lost Creek HMA increases through reproduction at a rate of approximately 18% to 20% per year.

23. The Stewart Creek HMA encompasses 231,124 acres, including land owned by the State of Wyoming. The AML for the Stewart Creek HMA is 125-175 horses. Upon information and belief, the estimated current wild horse population in the Stewart Creek HMA is 555 horses. The wild horse population in the Stewart Creek HMA increases through reproduction at a rate of approximately 18% to 20% per year.

24. In addition to the Adobe Town, Lost Creek, and Stewart Creek HMA's, the Rawlins field office manages wild horses in an area south of Interstate 80. This area south of Interstate 80 is bounded on the west by Highway 789 and on the east by the Adobe Town and Salt Wells HMA's. Land owned by the State of Wyoming lies within the boundaries of the area south of Interstate 80. The AML for the area south of Interstate 80 is 0. Upon information and belief, the estimate current wild horse population of the area south of Interstate 80 is 200 horses. The wild horse population in the area south of Interstate 80 increases through reproduction at a rate of approximately 18% to 20% per year.

25. The Lander field office maintains and manages wild horses in seven HMA's: the Antelope Hills HMA, the Conant Creek HMA, the Crooks Mountain HMA, the Dishpan Butte HMA, the Green Mountain HMA, the Muskrat Basin HMA, and the Rock Creek HMA.

26. The Antelope Hills HMA encompasses 57,000 acres, including land owned by the State of Wyoming. The AML for the Antelope Hills HMA is 60-82 horses. Upon information and belief, the estimated current wild horse population in the Antelope Hills HMA is 167 horses. The wild horse population in the Antelope Hills HMA increases through reproduction at a rate of approximately 18% to 20% per year.

27. The Crooks Mountain HMA encompasses 51,000 acres, including land owned by the State of Wyoming. The AML for the Crooks Mountain HMA is 65-85 horses. The estimated current wild horse population in the Crooks Mountain HMA is 175 horses. The wild horse population in the Crooks Mountain HMA increases through reproduction at a rate of approximately 18% to 20% per year.

28. The Green Mountain HMA encompasses 88,000 acres, including land owned by the State of Wyoming. The AML for the Green Mountain HMA is 170-300 horses. The estimated current wild horse population in the Green Mountain HMA is 390 horses. The wild horse population in the Green Mountain HMA increases through reproduction at a rate of approximately 18% to 20% per year.

29. The Conant Creek HMA, the Dishpan Butte HMA, the Muskrat Basin HMA, and the Rock Creek HMA together encompass approximately 375,000 acres of land, including land owned by the State of Wyoming. The AML for the Conant Creek HMA is 60-100 horses. The AML for the Dishpan Butte HMA is 50-100 horses. The AML for the Muskrat Basin HMA

is 160-250 horses. The AML for the Rock Creek HMA is 50-86 horses. The estimated current wild horse population in these HMA's is 675 horses. The wild horse population in each of these HMA's increases through reproduction at a rate of approximately 18% to 20% per year.

30. The Worland field office maintains and manages wild horses in one HMA, the Fifteenmile Herd HMA. The Fifteenmile Herd HMA encompasses over 83,000 acres, including land owned by the State of Wyoming. The AML for the Fifteenmile Herd HMA is 70-160. The estimated current wild horse population in the Fifteenmile Herd HMA is 260 horses. The wild horse population in the Fifteenmile HMA increases through reproduction at a rate of approximately 18% to 20% per year.

31. The Cody field office maintains and manages wild horses in one HMA, the McCullough Peaks HMA. The McCullough Peaks HMA encompasses 109,814 acres of land, including land owned by the State of Wyoming. The AML for the McCullough Peaks HMA is 70-140. The estimated current wild horse population in the McCullough Peaks HMA is 360 horses. The wild horse population in the McCullough Peaks HMA increases through reproduction at a rate of approximately 18% to 20% per year.

32. All wildlife in the State of Wyoming is the property of the State of Wyoming. The State of Wyoming manages, protects and regulates all wildlife within its sovereign borders.

33. Each of the 16 HMA's, the North Baxter/Jack Morrow Hills area, and the area south of Interstate 80 support significant wildlife populations, including big game (antelope, elk, moose, and mule deer), birds (greater sage grouse, raptors, and song birds), rodents, amphibians, reptiles and fish. The overpopulation of wild horses has resulted in increased competition between the wild horses and wildlife for forage, water, cover, and space in these areas. The excess wild horses have consumed forage, water, cover, and space at the expense of the wildlife that share overlapping habitat with the wild horses. The consumption of forage, water, cover, and space by the excess wild horses has diminished habitat at the expense of the wildlife living in these areas.

34. The continuing overpopulation of wild horses in Wyoming also threatens to displace wildlife from each of the 16 HMA's, the North Baxter/Jack Morrow Hills area, and the area south of Interstate 80. If the population of wild horses continues to exceed the AML's established for these areas, the number and diversity of wildlife and wildlife habitat in these will be reduced.

35. The continuing overpopulation of wild horses in Wyoming eventually will adversely affect the long term viability of the wild horse herds. If the population of wild horses continues to increase, the number of horses eventually will exceed the carrying capacity of the HMA's, the North Baxter/Jack Morrow Hills area, and the area south of Interstate 80. If the number of horses in these exceeds the carrying capacity for any significant period of

time, the horses will begin to show sign of poor health such as poor individual animal condition, low birth rates, and high mortality rates in all age classes. As a result of the continuing overpopulation of wild horses, increasing numbers of wild horses will die prematurely due to starvation, disease, or lack of water.

36. By their failure to manage the wild horses in Wyoming in accordance with the non-discretionary mandate in the Wild Free-Roaming Horses and Burros Act, Defendants have unnecessarily caused a threat to the continuation of a viable, healthy, and sustainable wild horse population, as well as other wildlife populations including big game (antelope, elk, moose, and mule deer), birds (greater sage grouse, raptors, and song birds), rodents, amphibians, reptiles and fish. The continuing failure to manage the wild horses in Wyoming consistent with population objectives will result in irreparable harm to the wild horse population and other wildlife populations in Wyoming.

37. The State of Wyoming owns land in each of the 16 HMA's in Wyoming, the North Baxter/Jack Morrow Hills area, and the area south of Interstate 80. The State of Wyoming leases these lands for grazing and other agricultural purposes. In accordance with state law, the State of Wyoming shall lease state-owned lands for grazing and other agricultural purposes in a manner that inures the greatest financial benefit to the state land trust beneficiaries. Beneficiaries of the revenues generated from the leasing of state-owned lands for grazing and other agricultural purposes include educational, penal, and reform institutions,

the Miner's Hospital, the Soldiers and Sailors Home, the State Law Library, the State Library, and various other state institutions.

38. The excess wild horses in Wyoming have consumed forage, space, and water on state owned lands at the expense of domestic livestock, thereby making it less economically feasible to graze livestock on those lands. The impact of the overpopulation of wild horses on the economic feasibility of domestic livestock grazing threatens to decrease the value of grazing leases on state-owned lands and thereby threatens to deprive various state institutions of revenues generated from the state land leases.

39. The overpopulation of wild horses in Wyoming has adversely impacted soils and vegetation within the HMA's, the North Baxter/Jack Morrow Hills area, and the area south of Interstate 80, especially around water locations. The overpopulation of wild horses has contributed to a decrease in vegetation, both by consuming vegetation and by trampling vegetation. As vegetation has decreased, soil erosion has increased. In the long term, the irreplaceable loss of topsoil through erosion and the compaction of soil caused by the trampling of the excess wild horses will decrease the availability of forage on the state-owned lands. A decrease in forage on the state-owned lands will displace wildlife from those lands and will make it less economically feasible to graze livestock on those lands.

40. The impact of the overpopulation of wild horses on soils and vegetation within the HMA's threatens to decrease the value of state-owned lands within the HMA's and to

decrease the value of grazing leases on state-owned lands within the HMA's. A decrease in the value of state-owned lands and the value of the grazing leases on such lands will adversely affect the state land trust beneficiaries who receive funding from the revenues generated by the state land leases.

41. In accordance with the Federal Land Policy and Management Act of 1976, the BLM Wyoming State Office has developed resource management plans ("RMP") to guide the management of BLM-administered lands in Wyoming. The Great Divide Basin, Little Colorado, Salt Wells, and White Mountain HMA's and the North Baxter/Jack Morrow Hills area are located within the public lands covered by the Green River RMP. The Adobe Town, Lost Creek, and Stewart Creek HMA's and the area south of Interstate 80 are located within the public lands covered by the Great Divide RMP. The Antelope Hills, Conant Creek, Crooks Mountain, Dishpan Butte, Green Mountain, Muskrat Basin, and Rock Creek HMA's are located within the public lands covered by the Lander RMP. The Fifteenmile Herd HMA is located within the public lands covered by the Grass Creek RMP. The McCullough Peaks HMA is located within the public lands covered by the Cody RMP.

42. The BLM Wyoming State Office developed the RMP's in Wyoming with the objective of maximizing resource values for the public through a rational, consistently applied set of regulations and procedures which promote the concept of multiple use management. The Green River, Great Divide, Lander, Grass Creek, and Cody RMP's each provide

management objectives for the maintenance and management of wild horses. The RMP's establish that the various HMA's in Wyoming shall be managed in a manner which maintains a thriving ecological balance and preserves the multiple-use relationship that exists in areas affected by wild horses.

43. The overpopulation of wild horses in Wyoming has damaged the public lands, including lands owned by the State of Wyoming. The damage caused by the excess wild horses has upset the balance of resource uses in the public lands covered by the Green River, Great Divide, Lander, Grass Creek, and Cody RMP's. The failure of Defendants to maintain the wild horse populations at the AML's does not conform with the management objectives established in the Green River, Great Divide, Lander, Grass Creek, and Cody RMP's.

44. Over the past four years, the State of Wyoming has made repeated written requests to the BLM Wyoming State Office to take the appropriate steps to reduce the size of the wild horses herds in Wyoming to the established AML's. Although the BLM Wyoming State Office has conducted some wild horses roundups during the past four years, at no time during the past four years has the BLM Wyoming State Office reduced the numbers of wild horses to the established AML in any of the 16 HMA's, the North Baxter/Jack Morrow Hills area, and the area south of Interstate 80.

FIRST CAUSE OF ACTION

Injunctive Relief Pursuant to Section 706(1) of the Administrative Procedure Act

45. Plaintiff incorporates by reference the allegations set forth in paragraphs 1-44 as if fully set forth herein.

46. In accordance with 5 U.S.C. § 706(1), a reviewing court shall compel agency action unlawfully withheld or unreasonably delayed.

47. The Wild Free-Roaming Horses and Burros Act dictates that, when an overpopulation of wild horses exists on a given area of public lands, the Secretary of the Interior shall immediately remove excess wild horses from the range so as to achieve appropriate management levels, to restore a thriving ecological balance to the range, and to protect the range from the deterioration associated with overpopulation. The duty to remove excess horses is non-discretionary.

48. The wild horse populations in each of the 16 HMA's, the North Baxter/Jack Morrow Hills area, and the area south of Interstate 80 exceed the AML's established by the BLM. By permitting the population of wild horses in Wyoming to exceed the established AML's, Defendants have unlawfully withheld an agency action required by 16 U.S.C. § 1333(b)(2).

49. Over the past four years, the State of Wyoming has made numerous written requests to the BLM Wyoming State Office to reduce the wild horse population in Wyoming

to the AML's established for each HMA in Wyoming. By failing to take action in response to the State of Wyoming's repeated written requests to reduce the population of wild horses in Wyoming, Defendants have unreasonably delayed an agency action required by 16 U.S.C. § 1333(b)(2).

50. The overpopulation of wild horses has caused, and will continue to cause, significant adverse effects on wildlife and lands owned by the State of Wyoming. These adverse effects include, but are not limited to: (a) the destruction and/or over consumption of forage, water, cover, and space needed to support wildlife and domestic livestock; (b) the needless destruction of vegetation necessary to prevent soil erosion; (c) an unnecessary decrease in water quality and quantity; and (d) the destruction of plant species and wildlife habitat naturally occurring on the state-owned lands. The damage caused to the state-owned lands threatens the continuation of viable, healthy, and sustainable wildlife populations and threatens to decrease the value of state-owned lands and the value of grazing leases for such lands. The failure of Defendants to maintain the wild horse populations at the established AML's does not conform with the management objectives established in the Green River, Great Divide, Lander, Grass Creek, and Cody RMP's.

51. The State of Wyoming has suffered, and will continue to suffer, permanent and irreparable injury unless this Court compels Defendants to reduce the wild horse populations in Wyoming to the appropriate AML's as required by 16 U.S.C. § 1333(b)(2).

SECOND CAUSE OF ACTION

Mandamus

52. Plaintiff incorporates by reference the allegations set forth in paragraphs 1-51 as if fully set forth herein.

53. In accordance with 28 U.S.C. § 1361, a reviewing court, in its discretion, may issue a writ of mandamus if the court determines that the government official has failed to discharge a duty that Congress intended for the official to perform.

54. The Wild Free-Roaming Horses and Burros Act dictates that, when an overpopulation of wild horses exists on a given area of public lands, the Secretary of the Interior shall immediately remove excess wild horses from the range so as to achieve appropriate management levels, to restore a thriving ecological balance to the range, and to protect the range from the deterioration associated with overpopulation. The duty to remove excess horses is non-discretionary.

55. The wild horse populations in each of the 16 HMA's, the North Baxter/Jack Morrow Hills area, and the area south of Interstate 80 exceed the AML's established by the BLM. By permitting the population of wild horses in Wyoming to exceed the established AML's, Defendants have failed to discharge a duty required by 16 U.S.C. § 1333(b)(2).

56. The overpopulation of wild horses has caused, and will continue to cause, significant adverse effects on wildlife and lands owned by the State of Wyoming. These

adverse effects include, but are not limited to: (a) the destruction and/or over consumption of forage, water, cover, and space needed to support wildlife and domestic livestock; (b) the needless destruction of vegetation necessary to prevent soil erosion; (c) an unnecessary decrease in water quality and quantity; and (d) the destruction of plant species and wildlife habitat naturally occurring on the state-owned lands. The damage caused to the state-owned lands threatens the continuation of viable, healthy, and sustainable wildlife populations and threatens to decrease the value of state-owned lands and the value of grazing leases for such lands. The failure of Defendants to maintain the wild horse populations at the established AML's does not conform with the management objectives established in the Green River, Great Divide, Lander, Grass Creek, and Cody RMP's.

57. The State of Wyoming has suffered, and will continue to suffer, permanent and irreparable injury unless this Court issues a writ of mandamus to compel Defendants to reduce the wild horse populations in Wyoming to the appropriate AML's as required by 16 U.S.C. § 1333(b)(2).

THIRD CAUSE OF ACTION

Declaratory Judgment

58. Plaintiff incorporates by reference the allegations set forth in paragraphs 1-57 as if fully set forth herein.

59. In accordance with 28 U.S.C. §§ 2201-2202, a reviewing court may declare rights and other legal relations of any interested party seeking declaratory relief, regardless of whether or not further relief is or could be sought. A reviewing court also may grant further necessary and proper relief based upon a declaratory judgment or decree.

60. The Wild Free-Roaming Horses and Burros Act dictates that, when an overpopulation of wild horses exists on a given area of public lands, the Secretary of the Interior shall immediately remove excess wild horses from the range so as to achieve appropriate management levels, to restore a thriving ecological balance to the range, and to protect the range from the deterioration associated with overpopulation. The duty to remove excess horses is non-discretionary.

61. The wild horse populations in each of the 16 HMA's, the North Baxter/Jack Morrow Hills area, and the area south of Interstate 80 exceed the AML's established by the BLM. By permitting the population of wild horses in Wyoming to exceed the established AML's, Defendants have failed to discharge a duty required by 16 U.S.C. § 1333(b)(2).

62. The overpopulation of wild horses has caused, and will continue to cause, significant adverse effects on wildlife and lands owned by the State of Wyoming. These adverse effects include, but are not limited to: (a) the destruction and/or over consumption of forage, water, cover, and space needed to support wildlife and domestic livestock; (b) the needless destruction of vegetation necessary to prevent soil erosion; (c) an unnecessary

decrease in water quality and quantity; and (d) the destruction of plant species and wildlife habitat naturally occurring on the state-owned lands. The damage caused to the state-owned lands threatens the continuation of viable, healthy, and sustainable wildlife populations and threatens to decrease the value of state-owned lands and the value of grazing leases for such lands. The failure of Defendants to maintain the wild horse populations at the established AML's does not conform with the management objectives established in the Green River, Great Divide, Lander, Grass Creek, and Cody RMP's.

63. The State of Wyoming has suffered, and will continue to suffer, permanent and irreparable injury unless this Court declares that Defendants have violated 16 U.S.C. § 1333(b)(2) by not maintaining the wild horses populations in Wyoming at the established AML's, and issue an injunction ordering Defendants to reduce the wild horse populations in Wyoming to the appropriate AML's as required by 16 U.S.C. § 1333(b)(2).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff State of Wyoming prays for this Court to enter judgment in its favor and against Defendants as follows:

1. Pursuant to 5 U.S.C. § 706(1), issue an order compelling Defendants to immediately reduce the numbers of wild horses in each of the HMA's in Wyoming to the applicable AML;

2. Pursuant to 28 U.S.C. § 1361, issue a writ of mandamus ordering Defendants to immediately reduce the numbers of wild horses in each of the HMA's in Wyoming to the applicable AML;

3. Pursuant to 28 U.S.C. § 2201, declare that Defendants have violated 16 U.S.C. § 1333(b)(2) by not maintaining the wild horses populations in Wyoming at the established AML's;

4. Pursuant to 28 U.S.C. § 2202, issue an injunction ordering Defendants to immediately reduce the numbers of wild horses in each of the HMA's in Wyoming to the applicable AML;

5. Pursuant to 28 U.S.C. § 2202, award the State of Wyoming its attorneys fees and costs incurred in bringing this action; and

6. Such other relief as the Court may find just and appropriate.

DEMAND FOR TRIAL BY JURY

Plaintiff State of Wyoming hereby demands a trial by jury on all claims and factual issues in this action.

Respectfully submitted this ____ day of August, 2003.

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